

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

PITTSFIELD GENERATING COMPANY, L.P.,

Plaintiff,

V.

DEVON CANADA CORPORATION,

Defendant.

Civil Action No:  
04-30128-MAP

## **DEFENDANT DEVON CANADA CORPORATION'S STATUS REPORT ON PARALLEL LITIGATION**

Pursuant to the Court's Order of December 28, 2004, Defendant Devon Canada Corporation ("Devon") hereby submits this report on the status of the parallel Alberta litigation.

As requested by the Court's Order, Devon will file subsequent status reports every six months.

Regarding the parallel Alberta litigation, which involves the above-named and additional parties, the parties currently are conducting and pursuing the Alberta equivalent of discovery (exchange of documents and depositions) and the possibility of Devon obtaining a Judgment against two of the Defendants. More specifically, the following significant events have occurred within the last six months:

1. On December 17, 2004, the Alberta Court of Appeal dismissed the Defendants'/Appellants' appeal regarding jurisdictional issues.
2. On January 10, 2005, Plaintiff Devon filed and served an Amended Statement of Claim which, among other things, added Pittsfield Partners, Inc. ("PPI") as a Defendant to the Alberta action.

3. On February 14, 2005, Defendants filed and served their Statements of Defence, which is roughly equivalent to an American answer to the complaint. Pittsfield Generating Company, LP also filed and served a Counterclaim against Devon, which requests relief for the alleged wrongful repudiation of the Gas Purchase Agreement by Devon, (estimated by Pittsfield Generating Company, LP to be \$63 million (USD)), damages for wrongful interference with economic relations, interest and costs.

4. On February 14, 2005, two of the Defendants served a Notice of Motion for an application pursuant to Rule 129 of the Alberta *Rules of Court* requesting that the Amended Statement of Claim be struck as against Altresco and PPI on the alleged grounds that it does not disclose an action against those Defendants.

5. On May 12, 2005, Pittsfield Generating Company, LP served its Affidavit of Records (as to the document production). On May 16, 2005, Devon served its Affidavit of Records. The serving of Affidavits of Records is a form of document discovery, and these parties served their Affidavits of Records in accordance with the time lines prescribed in the Alberta *Rules of Court*.

6. On May 17, 2005, Devon served its Reply and Joinder of Issue to the Defendants' Statements of Defence and Devon's Statement of Defence to the Counterclaim of Pittsfield Generating Company, LP.

7. On May 18, 2005, Altresco and PPI applied in chambers under Rule 129 of the *Rules of Court* for an Order striking Devon's Amended Statement of Claim as against those Defendants. Devon made a cross application pursuant to Rules 162 and 163 of the *Rules of Court* for Judgment as against those Defendants. The court adjourned the applications so that Devon, Altresco and PPI have an opportunity to resolve the issues arising from Devon's

application for Judgment and to enter into a Consent Judgment. Currently, the parties are addressing issues arising from the proposed Consent Judgment.

8. On June 1, 2005, notice was given of a change in counsel for PE-Pittsfield, LLC, PurEnergy I, LLC and Pittsfield Generating Company, LP.

9. On June 6, 2005, new counsel for PE-Pittsfield, LLC, PurEnergy I, LLC and Pittsfield Generating Company, LP wrote to other counsel to advise that they wished to address the court in relation to the issue of Devon obtaining a Judgment against Altresco and PPI.

Respectfully submitted,

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